



WEB COPY



CRP (PD) No.2460 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) Nos.2460 & 2461 of 2021
and
CMP Nos.18589 & 18590 of 2021

V.Sakthi

... Petitioner in both C.R.Ps

Vs

R.Vivek @ Sudarshan

... Respondent in both C.R.Ps

Common Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, praying to call for the records pertaining to the Fair and Decreetal Order dated 20.09.2021 passed in I.A.Nos.01 and 02 of 2020 in O.P.No.3284 of 2019 on the file of the III Additional Principal Family Court, Chennai and to set aside the same.

For Petitioner : Mr.Arun

COMMON ORDER

These two revisions have been filed by the wife challenging the orders of the Family Court, granting visitation rights to the father of the child



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and dismissing the application filed by the wife seeking injunction restraining the husband from interfering with the custody of the child.

2. The relationship is admitted. The proceedings for divorce and restitution of conjugal rights are pending. Very serious allegations are made by the spouses against each other. It is seen from the records that the wife and her siblings have prevented the respondent / father from seeing the child after the child was born. A Police complaint was lodged. Request made by the Police authorities to the petitioner/wife to allow the father to see the child, was resisted by her. The husband without any alternative, approached the Family Court. The Family Court considering all the above, allowed the application filed by the husband for visitation rights, granting permission to see the child twice a month for two hours per day.

3. I do not think that the order of the Family Court could be said to be illegal or materially irregular. Whatever is the dispute between the parties, the child must have the care and affection of both parents. It is, in that view, the Family Court had granted permission to the father to visit the



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child twice a month for two hours per day, which cannot be termed to be unreasonable.

4. The learned counsel for the petitioner would submit that the Family Court was not right in dismissing the I.A.No.2 of 2020 which is an application, restraining the husband from in any way interfering with the custody of the child.

5. The husband has admitted the custody of the child with the mother and also sought for permission in I.A.No.01 of 2020. The application seeking visitation rights that has been allowed and he has been a given time frame to see the child. Hence, the dismissing of I.A.No.2 of 2020 will not enable the husband to take away the child from the custody of the wife. The very fact that the husband has submitted to the Jurisdiction of the Family Court at Chennai and had sought for only visitation rights would demonstrate his intention. I am clearly of the opinion that the dismissing of I.A.No.2 of 2020 will not clothe the husband with a right to take away the child or remove of the child from the custody of the mother. Apart from the



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above, I do not find any irregularity or illegality in the order of the Family Court. Hence, I am unable to interfere with the order of the trial Court under Article 227 of the Constitution of India. The revision therefore fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2021

vum

Index: Yes/No

Speaking order / Non speaking order

To:

The III Additional Principal Family Court, Chennai.



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R.SUBRAMANIAN, J.

vum

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